

**MINUTES OF THE
MARICOPA ASSOCIATION OF GOVERNMENTS
REGIONAL COUNCIL MEETING**

February 27, 2002
MAG Office, Saguaro Room
Phoenix, Arizona

MEMBERS ATTENDING

Vice Mayor Claude Mattox for	Supervisor Don Stapley, Maricopa County
Mayor Skip Rimsza, Phoenix	Mayor Keno Hawker, Mesa
Mayor Ron Drake, Avondale	Mayor Edward Lowry, Paradise Valley
* Mayor Dusty Hull, Buckeye	* Mayor John Keegan, Peoria
* Mayor Edward Morgan, Carefree	Mayor Wendy Feldman-Kerr, Queen Creek
* Vice Mayor Ralph Mozilo, Cave Creek	* President Ivan Makil, Salt River
* Mayor Jay Tibshraeny, Chandler	Pima-Maricopa Indian Community
Mayor Roy Delgado, El Mirage	Mayor Mary Manross, Scottsdale
* Mayor Sharon Morgan, Fountain Hills	Mayor Joan Shafer, Surprise
* Mayor Chuck Turner, Gila Bend	Mayor Neil Giuliano, Tempe
* Governor Donald Antone, Gila River Indian	* Mayor Adolfo Gamez, Tolleson
Community	Mayor Lon McDermott, Wickenburg
Vice Mayor Les Presmyk for	* Mayor Daphne Green, Youngtown
Mayor Steven Berman, Gilbert	Dallas Gant, ADOT
Mayor Elaine Scruggs, Glendale	* Joe Lane, ADOT
* Mayor Bill Arnold, Goodyear	F. Rockne Arnett, Citizens Transportation
* Mayor Margarita Cota, Guadalupe	Oversight Committee
Mayor J. Woodfin Thomas, Litchfield Park	*+Mayor Douglas Coleman, Apache Junction

*Those members neither present nor represented by proxy.

+ Non-voting.

Attended by videoconference or by telephone conference call.

1. **Call to Order**

The meeting of the Regional Council was called to order by Acting Chairman Keno Hawker at 5:00 p.m.

2. **Pledge of Allegiance**

Acting Chairman Hawker requested a moment of silence in honor of the Scottsdale police officer, Thomas Hontz, who gave his life in the line of duty.

Acting Chairman Hawker recognized proxies Vice Mayor Les Presmyk for Mayor Steve Berman, Gilbert, and Vice Mayor Claude Mattox for Mayor Skip Rimsza, Phoenix.

Acting Chairman Hawker welcomed new Regional Council member Mayor Lon McDermott, and presented him with his Regional Council membership certificate.

Acting Chairman Hawker stated that transit tickets from RPTA are available for those who used transit to come to the meetings.

4. Call to the Audience

This agenda item was taken out of order.

Acting Chairman Hawker recognized public comment from DD Barker, who stated that she admired MAG's self examination. She stated that she had a letter to the FTA published in the Tribune. Ms. Barker commented on more pollution with at grade rail. She noted that the red line bus does not go into the airport, but light rail does not. She referred to previous minutes when she expressed that local governments have put money into transportation projects already. Ms. Barker stated that a citizen in Mesa told her that Mesa does not have money for projects, but studies only. Ms. Barker thanked RPTA for her transit tickets. Acting Chairman Hawker thanked Ms. Barker for her comments.

Acting Chairman Hawker recognized public comment from Blue Crowley, who stated that he had had come to the meeting on the bus from Tempe, where he attended a spring training baseball game. Mr. Crowley stated that he had Acting Chairman Hawker recognized public comment from Mr. Crowley, who stated that he had requested giving comment at the Transportation Subcommittee meeting on an item listed as possible action, and was denied. Mr. Crowley quoted from an open meeting law brochure that he had obtained from the City of Phoenix that the public body has to allow the public access to meetings without obstruction, including signing in. Mr. Crowley noted that he had just received a meeting notification from CTOC that stated that he would need to sign in to attend the meeting. Mr. Crowley went on to quote from the brochure about penalties for violations of the open meeting law to deprive the public of access to meetings, including attorney fees and removal from office. Acting Chairman Hawker thanked Mr. Crowley for his comments. There being no further citizen comment, Acting Chairman Hawker moved on to the next agenda item.

5. Executive Director's Report

James M. Bourey stated that because of an error in calculating federal funding appropriations for FY 2002, MAG had received notice that allocations were going to be \$12 million less than expected. Mr. Bourey noted that MAG was not the only area affected by this error. Mr. Bourey stated that notice had been received the day prior that the error would be corrected and MAG would receive the full allocation of \$12 million in STP funds.

Mr. Bourey stated that the Greater Phoenix Business Leadership Coalition Forum had a positive discussion of the extension of the half-cent sales tax. He added that another forum to discuss transportation issues was scheduled for March 11, 2002.

Mr. Bourey stated that three budget workshops were held in different parts of the region to provide an overview of the next Work Program. Workshops included Peoria on February 15, Chandler on February 21, and Phoenix on February 25. Mr. Bourey stated that participation at the workshops provided an opportunity for open discussion by member agency staff on Work Program tasks.

Mr. Bourey stated that the Council for Excellence in Government Fellows has indicated they will study MAG for a day next month.

Mr. Bourey stated that the MAG Desert Peaks Nomination Form was at each place, and would also be mailed out.

Mr. Bourey added that dinner following the meeting would be held in the new Cholla Conference Room. The room will provide an opportunity for all to dine in the same room together. Acting Chairman Hawker thanked Mr. Bourey for his report.

8. Discussion of Federal Transportation Funding for FY 2002 to 2007

Eric Anderson expressed his appreciation for efforts by the Federal Highway Administration in correcting the error in calculating federal appropriations for FY 2002. He gave a presentation of potential state and federal funding reductions. Mr. Anderson stated that TEA-21 guides the distribution of Highway Trust Funds, from fuel taxes, truck and trailer sales, and miscellaneous excise taxes, such as on tires. He stated that in FY 2000, Arizona paid \$583.1 million in transportation taxes and received back 90.5 percent, which is the minimum guaranteed to all states. Mr. Anderson noted that some states received more than 100 percent. He explained the sources of transportation funding in the MAG region, which include Surface Transportation Program (STP) allocations, Regional Area Road Funds (RARF), Highway User Revenue Funds (HURF), ADOT Five Year Construction Program, and local general funds and lottery funds.

Mr. Anderson stated that in FY 2001, MAG received about \$35 million in STP funds, of which \$34.1 million was allocated to the freeway program. Mr. Anderson stated that about \$34 million in CMAQ funds were allocated to MAG in 2001. He explained that the ADOT five year program receives about \$400 million per year in federal funds. MAG has been working with ADOT to increase the region's fair share of the funds, which will rise from about 21.5 percent in 2002 to 42.8 percent in 2006.

Mr. Anderson stated that Revenue Aligned Budget Authority, or RABA, was designed to automatically adjust federal transportation funding for changes in trust fund receipts. He noted that RABA increased annually in 2000, 2001, and 2002. However, the amount is negative \$4.4 billion for 2003, because tax receipts came in lower than projected for FY 2001. Mr. Anderson stated that there may be a reduction of \$8.5 billion in federal transportation funding in 2003, compared to 2002. Mr. Anderson stated that an audit was conducted and no major errors were found. He added that a portion of the cut may be restored by Congress.

Mr. Anderson reviewed other impacts to the transportation budget, such as ADOT revised HURF projections and transfers of funds to the Department of Public Safety. He explained two proposed bills that would increase ADOT's HURF bonding cap being increased to \$300 million. Mr. Anderson stated that the bills have passed out of the Senate and House and are ready for floor action. He added that the Resource Allocation Advisory Committee (RAAC) felt confident of passage of the legislation. Acting Chairman Hawker thanked Mr. Anderson for his report and asked if there were any questions.

Mayor Thomas asked the impact on HURF from using the income stream? Mr. Anderson stated that the forecast is a decrease of \$30 million. The additional HURF bond debt service will impact future programming. He stated that the shift to DPS for enforcement is a \$35 to \$40 million amount, with half from ADOT and half from the cities. Mr. Anderson added that we do not have control over this and it is important to monitor.

9. Initial and Interim Closeouts of the FY 2002 MAG Federally Funded Program

Paul Ward provided a review of the annual MAG closeout process to ensure that all of the federal funds for the current federal fiscal year are spent. Mr. Ward stated that MAG's FY 2002 Obligation Authority, which is spending authority that is derived from the annual appropriations legislation, totals \$74.5 million. He added that there are \$71.4 million in total programmed projects in the TIP. Mr. Ward stated that there are \$1 million in STP and \$2.1 million in CMAQ funds that are unprogrammed.

Mr. Ward reviewed the interim closeout process. Agencies need to notify MAG staff by March 1 of FY 2002 of any projects that need to be deferred or withdrawn. This total to date is \$5 million in CMAQ funds. He added that this includes \$1.5 million in projects that may be deleted. Mr. Ward stated that the unprogrammed and deferred project totals are added together, and then projects are identified that could utilize the total uncommitted funds.

Acting Chairman Hawker asked for clarification between deleted and deferred projects. Could this help make up the funding shortfall? Mr. Ward replied that there is no expected shortfall for the current year, but a shortfall is expected to occur next year. Mr. Bourey confirmed that FYs 2003 and 2004 were the years that were difficult in regard to the shortfall. Acting Chairman Hawker asked if the funding shortfall problem could be solved if projects were deleted. Mr. Ward replied that it could, if funds could be carried over from this year to next year. Acting Chairman Hawker asked for examples of deleted projects. Mr. Ward stated that the City of Scottsdale had deleted a paving dirt road project, because of high cost and alignment issues.

Mayor Shafer asked the process for submitting requests to use the funds. Mr. Ward explained how a project is requested and needs to be developed according to the federal process, i.e., in a conforming TIP, by September 30. He added that this process usually takes up to 18 months, and new projects are not realistic considerations during the closeout process. Because the closeout process lasts only six months, projects must be ready to commit. Acting Chairman Hawker requested that Mr. Ward provide the process in writing so member agencies can see how they can become involved.

10. Amendment to the FY 2002-2006 MAG Transportation Improvement Program

Mr. Ward stated that there are occasions when amendments are needed to the TIP. This amendment involved the light rail system and financing. He stated that the FTA has indicated that the amount of discretionary federal transit funding for the Light Rail Project in the FY 2002-2006 TIP needs to be reduced to reflect the actual amount of likely Section 5309 funds, or New Starts money, expected to be available. They suggested that the amount be limited to \$80 million per year. Mr. Ward explained that local funds need to be increased in 2003-2006 to offset the reduction of federal funds and that the increased amount of local funds will be repaid by federal funds in later years, as permitted by FTA. An amendment to the FY 2003-2006 MAG TIP is needed to reflect the projects' most recent financial plan. He explained the process where those projects were deleted and replaced with projects that meet the federal guidelines. Valley Metro has put in more local funding and utilized advance local construction, then is repaid with federal funds. Mr. Ward stated that the TIP also needs to be amended to add two Maricopa County projects to the TIP for FY 2002: Work Links and Southwest Inter-City Transit using Job Access and Reverse Commute (JARC) funds. He added that we have been recently notified that we were successful in receiving these funds.

Mr. Ward stated that the requested action was to approve an amendment to the FY 2002-2006 MAG Transportation Improvement Program to reflect the revised financial plan for the Light Rail Project, and

to add two Maricopa County projects to the TIP: the Work Links and Southwest Inter-City Transit projects.

Acting Chairman Hawker recognized public comment from Mr. Crowley, who stated that his comments on agenda item #7, Conformity Consultation, had been adequately expressed in the public input section of the summary transmittal. Mr. Crowley stated that the City of Phoenix will have park and ride lots even before there are stops. He reminded members that they still do not have that letter of recommendation from the feds to use money for light rail. Mr. Crowley stated that during rush hour in Tempe, you can count on a bus every half hour; but there are no buses on Roosevelt Street in downtown Phoenix. Mr. Crowley gave a thumbs up to the transit projects in agenda item #7. He commented on the 30-day notice requirements for agenda item #9, Initial and Interim Closeouts of the FY 2002 MAG Federally Funded Program. Mr. Crowley stated that DD Barker and he should be considered stakeholders. He stated that the trucking industry needs to be considered as a part of the equation. Yellow Freight Company did not know about CANAMEX. Mr. Crowley stated that commuter rail is needed. Acting Chairman Hawker thanked Mr. Crowley for his comments.

Acting Chairman Hawker asked for confirmation that 5309 funds were discretionary funds and would not take funding away from other projects. Mr. Ward replied that was correct. Acting Chairman Hawker asked for confirmation that projects must be in a conforming TIP or they could not be built. Mr. Ward replied that was correct.

Mayor Thomas asked if the deleted projects and new projects totals were equal. Mr. Ward replied there was little difference in the totals. He explained that there was approximately \$200 million less in federal funds on projects being substituted. Local match was increased for the \$200 million difference. Mr. Ward stated that repayments will likely show up in the outer years of the TIP, such as 2008 or 2009.

Acting Chairman Hawker asked if a study of regional impacts would be done. Mr. Bourey explained that the review of regional impacts when 208 and TIP amendments were being considered was a process that had been discussed by the Governance Task Force and the Regional Council, but the Regional Council had not yet approved it.

Mayor Feldman-Kerr moved to approve an amendment to the FY 2002-2006 MAG Transportation Improvement Program to reflect the revised financial plan for the Light Rail Project, and to add two Maricopa County projects to the TIP: the Work Links and Southwest Inter-City Transit projects. Mayor Delgado seconded.

Mayor Drake asked about repayment on the first three projects shown on Table One would be repaid in future years. Mr. Ward replied that was correct. Mayor Drake asked who decides when repayment would take place. Mr. Ward explained that Valley Metro would decide when they discover when we will get the funds. Mr. Ward stated that all advance construction projects have local funds up front. Mayor Drake asked what would happen if the federal costs were not repaid. Mr. Ward explained that 5309 funds are expected in the outer years of the TIP as a part of the annual appropriations process. He added that Valley Metro has set up an expected repayment schedule. Mayor Drake asked if it was prudent to spend \$120 million and hope to get funding in future years. Acting Chairman Hawker stated that this puts the project in the program if we decide to put it in the TIP. If we don't get the funds, we are out of luck. Mayor Giuliano stated that this was a way to move the projects forward.

Hearing no further discussion, a vote was taken on the motion, which passed, with Mayor Drake voting no.

3. Approval of January 30, 2002 Meeting Minutes

Mayor Thomas moved to approve the minutes of the January 30, 2002 meeting minutes. Mayor Lowry seconded, and the motion carried, with Vice Mayor Mattox abstaining.

6. Approval of Consent Agenda

Acting Chairman Hawker stated that public comment is provided for consent items. Each speaker is provided with a total of three minutes to comment on the consent agenda. After hearing public comments, any member of the committee can request that an item be removed from the consent agenda and considered individually. Acting Chairman Hawker stated that agenda item #7 was on the consent agenda.

Acting Chairman Hawker recognized public comment from Mr. Crowley, who stated that he has turned in a registrar document for the minutes numerous times and it is never in there. He referred to the public input section on the summary transmittal for his comments on agenda item #7, Conformity Consultation. Mr. Crowley stated that in the public input section of the summary transmittal for agenda item #11, Conducting a 2005 Special Census or Using an Estimate to Gauge Mid-Decade Population, it says "none received." However, he has requested being able to input. Mr. Crowley mentioned the time he was required to sign in for a public hearing. The notice was not done correctly. Conformity was not done correctly last month. The public has the right to talk. With conformity, the watchdog is enabled to kick down the door. You are not getting the conformity.

Mayor Shafer moved to approve consent agenda item #7. Mayor Drake seconded, and the motion carried unanimously.

7. Conformity Consultation

The Regional Public Transportation Authority has requested an amendment for seven transit projects in the FY 2002-2006 MAG Transportation Improvement Program (TIP). The amendment is necessary to revise funding and scheduling for right-of-way acquisition, final design, and construction for fixed guideway corridor projects. In addition, an amendment is required to add two Maricopa County projects to the TIP for FY 2002: Work Links and Southwest Inter-City Transit. MAG has reviewed the projects and has found that the project revisions and new projects do not require a conformity determination.

13. Legislative Update

This agenda item was taken out of order.

Dennis Smith provided a summary of pending legislation of interest to the MAG region. HB 2299 would provide authority for the extension of the half cent sales tax in Maricopa County, with proceeds being split 50 percent to transit and 50 percent to freeways. He stated that the Executive Committee had not taken a position on the bill. Mr. Smith stated that on February 20, 2002, the Regional Council Transportation Subcommittee reviewed transportation legislation. He noted that at a previous Chamber of Commerce meeting, some supporters of the Governor's Transportation Vision 21 Task Force expressed concern for the 50/50 split. Mr. Smith noted that language could be modified to have the distribution of the tax determined in the plan that would be developed by the MPO in cooperation with ADOT and RPTA.

Mayor Scruggs stated that the Transportation Subcommittee agreed that it was important to have the enabling legislation passed immediately. She stated that Councilmember Peggy Bilsten, Phoenix, a Transportation Subcommittee member, expressed Phoenix's concerns that they need to have money for transit. Mayor Scruggs added that for the ballot measure to be successful, Phoenix needs to be supportive. Because of these points, it was the consensus of the Transportation Subcommittee to get enabling legislation and determine the split at a later date. She commented that by removing the allocation, the bill would have a better chance of passing. Chairman Hawker asked Vice Mayor Mattox for Phoenix's position. Vice Mayor Mattox stated that the City of Phoenix is open to MAG's discretion on this, as Councilmember Bilsten expressed at the Transportation Subcommittee meeting.

Mayor Thomas asked for clarification of the "No Support" position indicated on the chart. Mr. Smith that "No Support" reflected the position of the Executive Committee, because the feeling at the time was that the bill was going nowhere. Since that time, the Transportation Subcommittee reached a consensus on language changes that would improve the bill.

Mr. Smith stated that HB 2497 establishes a nine member State Transportation Board, with three members from the Maricopa County area, two members from Pima County area, and four members from rural areas. He stated that the Executive Committee recommended support for this bill.

Mr. Smith stated that HB 2588 and SB 1244 are companion bills that increase the ADOT bonding cap. He noted that Mr. Anderson had covered the implications of the legislation during his presentation for agenda item #8, Discussion of Federal Transportation Funding for FY 2002 to 2007. Mr. Smith indicated that the bills appear to be moving through the Legislature.

Mr. Smith stated that there is great concern to MAG for HB 2660, which shifts the authority for planning and programming from the MPO to the State Transportation Board. This bill seems in opposition to existing federal law. Mr. Smith explained that the legislation also carries a "HURF hammer," whereby the ADOT Director could withhold HURF funds if certain practices are not followed. He noted a version received that day that includes a provision that ADOT will cooperate until 2004. After that, ADOT would not be bound to cooperate. Mr. Smith stated that the recommended position was to oppose until the language is fixed to say the plan will be developed by the MPO in cooperation with ADOT and RPTA.

Mr. Bourey noted that other legislation shown on the chart were relatively straightforward, with the exception of HB 2583, which could have air quality implications. Mr. Bourey urged opposition to this bill.

Acting Chairman Hawker recognized public comment from Mr. Crowley, who stated that he had requested giving comment at the Transportation Subcommittee meeting on an item listed as possible action, which he was told was at the discretion of the chair, and was denied. He commented on following the Open Meeting Law. Mr. Crowley stated that he wanted a separate vote, not 50/50. One vote would be for light rail, freeways and maintenance and one vote would be for commuter rail, bike, and pedestrian. Mr. Crowley stated that the public has a right to be heard. In that week since his request, what kind of skullduggery has occurred on the legislation? Mr. Crowley stated that looking at the Governance changes, if the Executive Order that established MAG ends, MAG will cease to be. Get the job done in air quality, transportation, and problems of the region, and not be parochial. Not allowing the public to input is wrong. Changing authority for transportation to ADOT, per Vision 21, is a positive move. Acting Chairman Hawker thanked Mr. Crowley for his comments.

Mayor Scruggs moved to give direction to staff to work on the legislation for HB 2299 to receive the authority to extend the one-half cent sales tax for transportation and to have the distribution of the tax determined in the plan developed by MAG in cooperation with ADOT and RPTA, and to change the position to one of support, and approve the positions for the bills as included in the agenda packet. Mayor Thomas seconded.

Mr. Gant stated that the State Transportation Board does not support the two bonding bills. He commented on substituting debt for funding. Mr. Gant stated that currently, ADOT bonds have an excellent rating. As the cap is increased and funding is eroded, it will become more expensive to provide funding.

Mayor Manross asked for clarification that the position for HB 2660 was opposition. Acting Chairman Hawker confirmed that.

Acting Chairman Hawker asked for a vote on the motion, which passed, with Mayor Shafer abstaining.

Acting Chairman Hawker left the meeting and turned the gavel over to Mayor Scruggs.

Acting Chairman Scruggs stated that because the meeting was running long, agenda items #11, Conducting a 2005 Special Census or Using an Estimate to Gauge Mid-Decade Population, and #12, MAG Governance Task Force Recommendations, might be tabled. Mr. Bourey noted that agenda item #11, Conducting a 2005 Special Census or Using an Estimate to Gauge Mid-Decade Population, was on the March Management Committee agenda. Mayor Scruggs noted a consensus of the Council that the Management Committee discuss the MAG Governance Task Force Recommendations at their next meeting, and their recommendations would be brought back to the Regional Council.

11. Conducting a 2005 Special Census or Using an Estimate to Gauge Mid-Decade Population

This agenda item was tabled.

12. MAG Governance Task Force Recommendations

This agenda item was tabled.

There being no further business, the meeting adjourned at 6:30 p.m.

Chairman

Secretary